BILL NO. 23

Government Bill

1st Session, 60th General Assembly
Nova Scotia
55 Elizabeth II, 2006

An Act to Amend Chapter 505 of the Revised Statutes, 1989, the Wills Act

CHAPTER 49
ACTS OF 2006

AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 23, 2006

The Honourable Murray K. Scott
Minister of Justice

Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly

2007-02992/

An Act to Amend Chapter 505 of the Revised Statutes, 1989, the Wills Act

Be it enacted by the Governor and Assembly as follows:

1 Section 6 of Chapter 505 of the Revised Statutes, 1989, the *Wills Act*, is amended by adding "(1)" immediately after the Section number and by adding the following subsection:

(2) Notwithstanding subsection (1), a will is valid if it is wholly in the testator's own handwriting and it is signed by the testator.

2 Chapter 505 is further amended by adding immediately after Section 8 the following Section:

8A Where a court of competent jurisdiction is satisfied that a writing embodies

(a) the testamentary intentions of the deceased; or

(b) the intention of the deceased to revoke, alter or revive a will of the deceased or the testamentary intentions of the deceased embodied in a document other than a will,

the court may, notwithstanding that the writing was not executed in compliance with the formal requirements imposed by this Act, order that the writing is valid and fully effective as if it had been executed in compliance with the formal requirements imposed by this Act.

3 (1) Subsection 9(2) of Chapter 505 is amended by striking out "actual military" in the first line and substituting "active".

(2) Subsection 9(3) of Chapter 505 is amended by striking out "actual military" in the fifth line and substituting "active".

4 Section 12 of Chapter 505 is amended by adding "an appointment of an executor or executrix or" **immediately after "than" in the first line.**

5 Section 15 of Chapter 505 is repealed and the following Section substituted:

15 As regards the manner and formalities of making a will, a will made either within or without the Province is valid and admissible to probate if it is made in accordance with the law in force at the time of its making in the place where

(a) the will was made;

(b) the testator was domiciled or had his or her habitual residence when the will was made; or

(c) the testator had his or her domicile of origin.

6 Chapter 505 is further amended by adding immediately after Section 19 the following Section:

19A Notwithstanding Sections 18 and 19, except where a contrary intention appears by the will or a separation agreement or marriage contract, where, after the testator makes a will, the testator's marriage is terminated by a judgment absolute of divorce or is declared a nullity,

(a) a devise or bequest of a beneficial interest in property to the testator's former spouse;

(b) an appointment of the testator's former spouse as executor or trustee; and

(c) the conferring of a general or special power of appointment on the testator's former spouse,

are revoked and the will shall be construed as if the former spouse had predeceased the testator.

7 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.